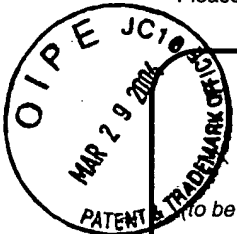


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AF/3636

HDP/SB/21 based on PTO/SB/21 (08-00)

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

<b>Application Number</b>	09/518,120		
	<b>Filing Date</b>	3-3-2000	
	<b>First Named Inventor</b>	David L. Robinson et al.	
	<b>Group Art Unit</b>	3636	
	<b>Examiner Name</b>	Joseph F. Edell	
<b>Total Number of Pages in This Submission</b>		<b>Attorney Docket Number</b>	0739D-000074

## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <b>Reply Brief to Examiner's Answer (in triplicate); and Acknowledgment Postcard</b>
<b>Remarks</b>		<b>The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.</b>
<b>Applicants submitted a single copy of the Reply Brief on March 26, 2004. This paper supplements that filing to meet the requirement to submit three copies of the Reply Brief. A Request for Oral Hearing was submitted with the prior filing.</b>		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name Michael Malinzak	Reg. No. 43,770
Signature			
Date	March 29, 2004		

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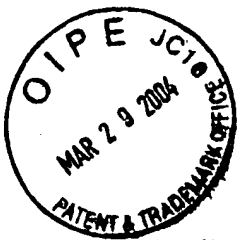
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EV 406 074 838 -v

EV 406 074 838 US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application No.: 09/518,120  
Filing Date: March 3, 2000  
Applicants: David L. Robinson, John F. Whalen,  
and Jeffery T. Bonk  
Group Art Unit: 3636  
Examiner: Joseph F. Edell  
Title: **LINEAR SEAT RECLINER FOR STRUCTURAL SEAT**  
Attorney Docket: 0739D-000074

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**REPLY BRIEF TO EXAMINER'S ANSWER**

Sir:

**Reply to Examiner's Answer**

As stated in Appellants' Appeal Brief filed on December 22, 2003, Appellants' invention calls for a recliner rod having at least three pairs of substantially planar flats and a stop formed integrally with one of the flats. These features are unique to the present invention and provide advantages in manufacturing and strength of the recliner rod.

In sum, the flats of the present invention are not a mere "duplication of parts for a multiplied effect," as argued by the Examiner, but rather, serve to improve both the manufacturability and performance characteristics of the recliner rod. Further, the integrally formed stop is not obvious

because one of skill in the art would be motivated to reduce undesirable seat back movement "without requiring seat recliner components that are expensive to manufacture, as argued by the Examiner. This advantage is one reason Appellants' invention is unique and commercially valuable.

The Examiner misrepresents Appellants' position when he states that Appellants admit that "it is common knowledge to one of ordinary skill in the art to modify a recliner rod to have either two or three pairs of planar flats." See Examiner's Answer at pg. 4, lns. 18-19. The Appellants do not admit, at pg. 6, lns. 14-22 of Appellants' Specification, that a recliner rod having three pairs of planar flats is "common knowledge to one of ordinary skill in the art." Rather, Appellants contend that a recliner rod having additional flats serves to help locate, guide, and hold the part during manufacturing operations to ensure proper machining and forming and to improve bending characteristics and resistance to deformation *due to the increased number of flats*. See Specification at pg. 5, lns. 19-21 (*emphasis added*). Furthermore, the Examiner states that a "recliner rod with a body shaped to have three pairs of planar flats is merely a matter of design choice, and thus does not serve to patentably distinguish the invention over the prior art." See Examiner's Answer at pg. 4, lns. 19-22. Again, Appellants disagree. Each of the Dahlbacka '215, Robinson '482, and Griswold '853 references fails to teach or suggest, either in combination or alone, a recliner rod having *three* pairs of flats. Appellants' claimed invention is therefore patentable over the art of record.

Appellants' invention further calls for a stop being formed integrally with a flat of a recliner rod, whereby the stop is operable to selectively restrict movement of the recliner rod relative to a housing. See Specification at pg. 24-26. By forming the stop integrally with the recliner rod at a flat of the recliner rod, manufacturing costs may be reduced. See Specification at pg. 2, lns. 1-6 and pg. 5, lns. 26-29. As can be appreciated, forming such integral stop on a flat of a recliner rod is beneficial in that the

flat aids in the positioning and holding of the recliner rod during forming of the recliner rod. See Specification at pg. 1, lns. 24-27 and pg. 2, lns. 1-6, and pg. 5, lns. 21-24.

The Examiner argues that “it would have been obvious to one of ordinary skill in the art” to utilize the integral stop of Robinson ‘482 with the recliner rod of Dahlbacka ‘215. See Examiner’s Answer at pg. 5, lns. 1-8. The Examiner contends that one would have been motivated to reduce undesirable movement of a seatback relative to a seat bottom (commonly referred to as “chucking”) “without requiring seat recliner components which are expensive to manufacture.” See Examiner’s Answer at pg. 5, lns. 8-11. This advantage is one reason for Appellants’ invention, but the Examiner has not provided a reference that teaches or suggests combining an integrally formed stop formed on a flat of a recliner rod. Appellants’ integrally formed stop improves the manufacturability of the recliner rod and aids positioning and holding of the recliner rod during forming. See Specification at pg. 1, lns. 24-27 and pg. 2, lns. 1-6, and pg. 5, lns. 21-24. Each of the Dahlbacka ‘215 and Robinson ‘482 references fails to teach or suggest, either in combination or alone, a recliner rod having a stop integrally formed on a flat of a recliner rod, and furthermore, fails to teach or suggest that such a combination aids in manufacturing a recliner rod. Appellants’ claimed invention is therefore patentable over the art of record.

## **Summary**

The prior art relied upon by the Examiner fails to teach or suggest Appellants’ invention for at least two reasons:

1. a recliner rod having at least three pair of flats for improving machinery, forming and bending, as well as improving resistance to deformation, is not taught or suggested by the prior art; and

2. a stop integrally formed with a flat of a recliner rod is not taught or suggested by the prior art.

For the foregoing reasons, it is submitted that the Examiner's rejection of claims 23-38 was erroneous, and reversal of his decision is respectfully requested.

Respectfully submitted,

Dated:

March 26, 2004

By:

Michael Malinzak  
Michael Malinzak (Reg. No. 43,770)  
Matthew H. Szalach (Reg. No. 53,665)

HARNESS, DICKEY & PIERCE, P.L.C.  
5445 Corporate Drive  
Troy, MI 48098  
(248) 641-1600

MM/MHS/ca